

## **Board Administration and Regulatory Coordination Unit**

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### **Division 3. Air Resources Board**

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### **Chapter 5. Standards for Motor Vehicle Fuels**

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### **Article 1. Standards for Gasoline**

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#### **Subarticle 1. Gasoline Standards That Became Applicable Before 1996**

#### **§ 2252. Sulfur Content of Gasoline Represented as Unleaded Sold Before April 1, 1996.**

(a) No person shall sell, offer for sale, or supply in California, as a fuel for motor vehicles, any gasoline represented as unleaded which has a sulfur content greater than 300 parts per million by weight.

(b) The maximum sulfur content limitations specified in subsection (a) shall be determined by ASTM Test Method 2622-87, or any other test method determined by the executive officer to give equivalent results.

(c) For the purpose of this section,

“Motor Vehicle” has the same meaning as defined in Section 415 of the Vehicle Code.

(d)(1) Any person who cannot comply with the requirements set forth in subsection (a) because of extraordinary reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the provisions of subsection (a) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance containing the information required in subsection (d)(1), the executive officer shall hold a hearing to determine whether, and under what conditions and to what extent, a variance from the requirements established by subsection (a) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(3) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with subsections (a) would result in an extraordinary economic hardship;

(B) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance.

(C) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(5) Any variance order shall specify final compliance date by which the requirements in subsection (a) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions, including limitations on the sulfur content of unleaded gasoline or diesel fuel produced for use in motor vehicles, that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(6) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(7) No variance from the requirements set forth in subsection (a) based on a plan for compliance which includes the installation of major additional equipment shall have a duration of more than three years.

(8) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(9) The executive officer may, after holding a hearing without complying with the provisions of subsections (d)(2) and (3), issue an emergency variance to a person from the requirements of subsection (a) upon a showing or reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the

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issuance of an emergency variance, the executive officer may waive the requirements of subsection (d)(6). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of subsection (a) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in subsection (d)(4) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to this paragraph (d)(9), and shall provide advance telephone notice to any such person.

(10) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(11) Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements of subsection (a) after holding a hearing in accordance with the provisions of subsections (d)(2) and (3).

(e) This section shall not apply to gasoline sold or supplied after April 1, 1996, except for gasoline that is supplied from a small refiner's California refinery prior to March 1, 1998, and that qualifies for treatment under section 2272(a).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39606, 41511, 43000, 43013, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

#### **REFERENCE**